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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,834	01/15/2004	Jim Bumgardner	PDT-1321.02 US	1833
23410	7590	11/17/2006	EXAMINER	
Vista IP Law Group LLP 2040 MAIN STREET, 9TH FLOOR IRVINE, CA 92614			VENT, JAMIE J	
			ART UNIT	PAPER NUMBER
			2621	

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/707,834

Applicant(s)

BUMGARDNER ET AL.

Examiner

Jamie Vent

Art Unit

2621

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 23 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b):

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1, 3, 5-7, 15, 17,.  
Claim(s) withdrawn from consideration: 2, 4, 8, 14, 16, 18-21.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

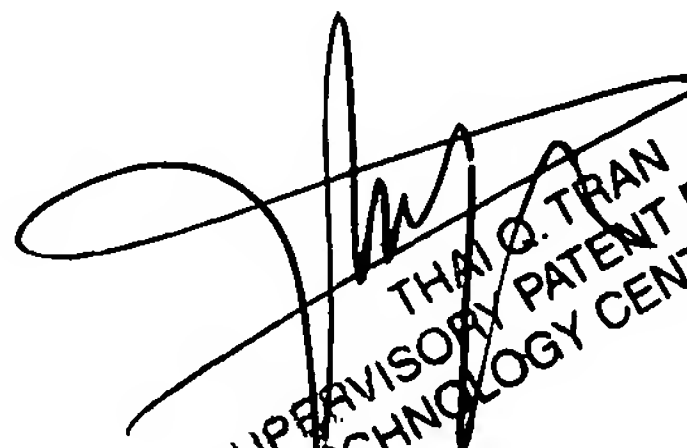
11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: PTO - 913 (Interview Summary).

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed October 31, 2006 have been fully considered but they are not persuasive. On page 2-6 applicant argues that Knudson in view of Marsh et al in view of Wantanabe et al fails to disclose, suggest, or teach the following limitation, "a first timeslot includes a user extended lead or trail timeslot and a second timeslot includes a core time slot" as recited in Claim 1. The examiner notes Knudson discloses in Column 7 Lines 5-15 the use of trail and lead timeslots as disclosed in Column 7 Lines 40+ which describes the "recorded short buffer segments just before or after the scheduled broadcast time" and thereby meets the limitation. Furthermore, Wantanabe et al also discloses a user extended time slot as a user selectable program time (i.e. a program to be recorded from 8:15 – 9:15) as described in paragraphs 0010-0012 and a core timeslot as the time associated with a program (i.e. News broadcasting having a core timeslot of 6:00) as recited in paragraphs 0074-0075. Additionally, applicant argues that the references fail to disclose, suggest, or teach the following limitation, "the first timeslot has a higher priority than the second timeslot" as recited in Claim 1. Knudson describes the use of priority in Column 7 Lines 5+; however, is silent on which timeslot has a higher priority. Wantanabe et al discloses in paragraphs 0074-0079 that priority is given to programs based on response given by the user or by judgment of the system and thereby meets the limitation of determining if a conflict exists and giving a priority to one timeslot over another timeslot.

On page 6 applicant argues that Knudson in view of Marsh et al in view of Wantanabe et al fails to disclose, suggest, or teach the following limitation "first type is user extended trail time slot less than a fixed interval" as recited in claim 5. Wantanabe et al discloses in paragraphs 0075 that the "programs overlap between their recording start time and recording end times" and thereby for the overlapping not to occur the program must only extend past a fixed interval of time for the next program to properly record. Additionally, on page 7 applicant argues that the references in combination fail to disclose, suggest or teach the "determining a plurality of solutions to said conflict" as recited in Claim 6. Wantanabe et al discloses in paragraphs 0074-0078 the system presenting a solution to the conflict of the system in order to resolve and properly record the programs. Additionally, examiner suggests that claims do not recite the "distinct priority scheme that determines priority based on timeslots" as argued by applicant. In order to properly discuss distinct priority scheme the examiner notes that it could be appropriate to discuss what occurs when user extended and core timeslots are present and when they are not present what the conflict resolution of the system does (i.e. Claim 1 recites using first and second priorities it might be helpful to further explain the priorities such as: if the user does not choose one of the solutions then the X timeslot has higher priority based on X reason) in order to overcome the prior art on record. Although, applicants points are understood the examiner cannot agree and the rejection is maintained.

  
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